

Library News	1
New Staff.....	1
New Databases	1
Periodical Collection	2
Do You Know?	2
Reviews	2
Jury Service: Is Fulfilling Your Civic Duty a Trial?	2
The Pro Se/Unbundling Resource Center ...	3
Recent Arizona Cases	3
May v. Ellis and David.....	3
From Other Jurisdictions.....	4
U.S. v. Gementera	4
Do You Know Answers.....	4
Recent Articles	4
New Books	6
Contributors:	7

Library News

New Staff

Rebecca Fields-Arden joined the staff in May as a research analyst. Rebecca earned her BA in English from the University of Pennsylvania and her law degree from the University of London, where she lived for several years. She currently lives in Gilbert with her 10-year-old daughter. Having traveled extensively throughout Europe, Africa, and Asia, Rebecca plans on spending all of her free time exploring Central and South America now that she is nearby.

Lauren Cochran is one of our newest Law Library Aides. She grew up in a small Ohio town called Poland, just outside of Youngstown. She moved to Columbus, Ohio where she attended Ohio State University. In 2002, Lauren graduated with a BA in Political Science. She moved to

Arizona in 2003, following her brother and parents. Lauren is currently working towards her Masters Degree in Public Administration.

Bobby Feller recently joined the staff as a Law Library Aide. She considers herself to be a true native San Diegan (Navy Brat) and hopes to get back there soon. Bobby says while its nice here in the winter, she has had enough with the heat and dryness. She misses seeing sunsets on the beach. She graduated from University of California, San Diego in 1998 with a BA in Anthropology and History and considered, among other things, attending library science school but never settled on actually applying anywhere. Bobby worked for 7+ years in the University of California libraries before deciding on attending culinary school at Scottsdale Culinary Institute. Bobby relocated to Scottsdale this past March and started school in April.

New Databases

The Law Library is pleased to announce the addition of Westlaw Patron Access to our research databases. Westlaw Patron Access provides case and statutory law for all 50 states; all state administrative codes; as well as federal statutory and case law. On Westlaw Patron Access you will also find a comprehensive construction law database; Hawkland's UCC series; *Couch on Insurance*; *Federal Practice and Procedure*; a forms database that includes a 4½ page listing of available forms; and both *Am Jur Trials* and *Proof of Facts*.

The Arizona Analytical Library includes the *Law of Evidence*; McAuliffe's *Civil Trial Practice*; *Community Property Law*; *Marriage Dissolution Manual*; *Juvenile Law and Practice*; *Civil Rules Handbook*; *Arizona*

Trial Handbook; the *Arizona Legal Forms* series and *Arizona Corporate Practice*.

Westlaw Patron Access is available from any of the Library's computers.

Periodical Collection

The Library's periodical collection is now 100% accessible. We apologize for the inconvenience the inaccessibility caused everyone. If you need a periodical, give us a call; we'll retrieve the material and have it waiting for you at the Circulation Desk.

Do You Know?

Find out how much you know about legal trivia.

1. What does *de minimis non curat lex* mean?
2. What is the origin of the term "red tape?"
3. What is known as "the American rule" regarding attorney's fees?
4. What three words start every session of the U.S. Supreme Court?
5. What was the annual salary of the chief justice of the United States in 1789: \$200, \$2,000 or \$4,000?

Reviews

Jury Service: Is Fulfilling Your Civic Duty a Trial?

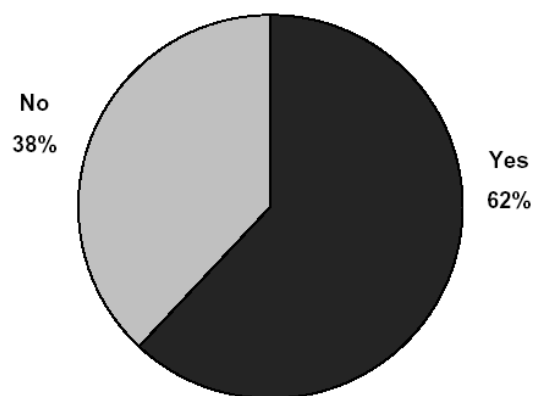
<http://www.abanews.org/releases/juryreport.pdf>

With all the news stories lately regarding jury duty, you might be surprised to learn that a recent survey showed that 84% of Americans agreed that jury duty is "an important civil duty that should be fulfilled, even if it happens to be inconvenient."

The American Bar Association used a market research company to conduct a survey regarding attitudes toward and

experience with jury service. The company, Harris Interactive, polled "a nationally representative sample of 1,029 adult Americans ages 18 or older." Sixty-two percent of those surveyed reported that they had been called for jury duty and of that 62%, sixty-three percent said they would want to serve again.

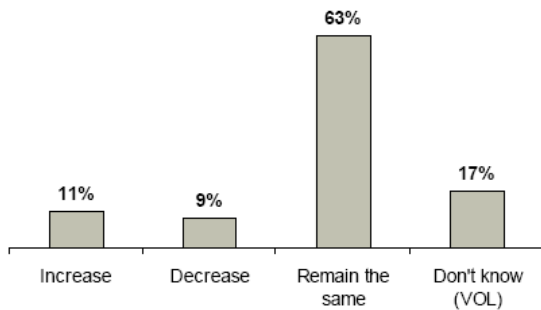
Whether Have Ever Been Called for Jury Service



When asked about their attitude toward jury duty, 63% felt that jury duty would not have a negative impact on their income with 75% holding the view that jury duty is not something to avoid. The poll also showed that "nearly two-thirds of Americans have been called for jury service – of which nearly half have actually served on a jury." Those who have served on a jury felt the experience was what they expected and their level of confidence in the justice system was the same as it was before they served (see chart on following page).

Responding to the poll, Robert J. Grey, Jr., president of the ABA, said "if we are to improve the response rate to (jury) summonses, we must work to strengthen Americans' understanding that the system they so respect works only when they are actively involved."

Level of Confidence in Justice System



The Pro Se/Unbundling Resource Center

www.abanet.org/legal/services/delivery/delunbund.html

The ABA's Standing Committee on the Delivery of Legal Services has put together a website that will help lawyers, bar leaders, the judiciary, and court administrators develop guidelines on the unbundling of legal services and other consumer-related matters. The cite makes it clear that the it is not intended to assist those wanting to provide such services, but rather a way for law and policy makers to address this growing practice.

The popularity of unbundled legal services - where an attorney contracts to perform a limited amount of work for a client without actually representing the client - has lead to revisions in many state ethics codes and court rules. There are currently six states that have adopted new rules regarding unbundled legal services. They are California, Colorado, Florida, Maine, Washington, and Wyoming. The director of the standing committee encourages "the states to assess the potential for unbundling in their strategies to provide complete access to legal services."

The Unbundling Resource Center has links to articles, books and reports, case law, court rules, ethics opinions, ongoing Pro Se projects, and a listing of 29 state and local self-service centers.

Recent Arizona Cases

May v. Ellis and David

Supreme Court, No. CV-04-0025-PR

July 1, 2004

Jack and Shannon David filed a civil suit against James and Nancy May alleging that the Mays "engaged in fraud and odometer rollback when selling them an automobile." While the fraud case was pending, Mr. May died. The Davids then filed a claim against the estate.

The probate court ordered Mrs. May to disclose any non-probate assets by filing an amended inventory. The amended filing showed two life insurance policies, payable to Nancy May, each in the amount of \$500,000.00. The Davids then "filed a motion to restrict or bond the life insurance proceeds." The motion was granted but Nancy May had already spent the money. The trial court then ordered Mrs. May to account for the insurance proceeds and even threatened her with incarceration if she did not comply. The accounting was filed but the trial court "nonetheless reaffirmed its contempt order and took under advisement the issue of whether a forensic accounting was necessary."

Nancy May filed a special action with the Arizona Court of Appeals, which declined jurisdiction. May then filed a petition for review. In granting "review of this purely legal question because the issue is one of first impression and is of statewide importance," the high court wrote that since 1954, A.R.S. 20-1131(A), has exempted the proceeds of life insurance policies from claims against a decedent's estate. Writing for the court, Justice Hurwitz ruled that the trial erred by concluding A.R.S. 14-6102(A) was the controlling statute. That statute says, in part, that insurance proceeds can be used if an estate does not cover what is owed. In concluding, the Court wrote that the life insurance proceeds are not part of Mr. May's estate and as such are not subject to the claim filed by the Davids.

From Other Jurisdictions

U.S. v. Gementera

9th Circuit Court of Appeals, No. 03-10103
(August 9, 2004)

The defendant, Shawn Gementera, pled guilty to mail theft (18 *U.S.C.* 1708). The court imposed a sentence of 2 months incarceration and 3 years supervised release. As a condition of his release, Gementera was ordered to "perform 100 hours of community service, to consist of standing in front of a postal facility in the city and county of San Francisco with a sandwich board which in large letters declares: 'I stole mail. This is my punishment'." Gementera challenged the punishment saying it was a violation of the Sentencing Reform Act as well as a violation of his Eighth Amendment right to be free from cruel and unusual punishment.

Writing for the court, Judge O'Scannlain, ruled that pursuant to the Sentencing Reform Act, "the statute explicitly authorizes the court to impose 'any other condition it considers to be appropriate'." The statute also says that the punishment must be "reasonably" related to the crime; must involve "no greater deprivation of liberty than is reasonably necessary;" and must protect the public from further crimes by the defendant. Gementera argued that despite the meaning of the statute, the punishment imposed serve no purpose other than to humiliate him. Not so, the court wrote. The punishment imposed was done to rehabilitate the defendant and to "have a deterrent effect on both this defendant and others who might not otherwise have been made aware of the real legal consequences of engaging in mail theft." The court further reasoned that the sandwich board punishment was a chance for Gementera to "repair his relationship with society."

Addressing the Eighth Amendment argument, the judge wrote that "a particular punishment violates the Eighth Amendment if it constitutes one of those

modes or acts of punishment that had been considered cruel and unusual at the time the Bill of Rights was adopted." Both parties agreed, "shaming sanctions of far greater severity were common in the colonial era." Affirming the lower court's decision, the 9th Circuit is unaware of any case, which held that "shaming sanctions violate our Constitution's prohibition against cruel and unusual punishment."

Do You Know Answers

From: Healey, Paul D. "De Minimis Curat Lex: A Compendium of Legal Trivia." 89 *Law Library Journal* 55 (1997).

1. The law doesn't bother with trifles.
2. Charles Dickens used it to describe the pink ribbon that tied barristers' bundles of papers.
3. Each side pays its own costs.
4. Oyez, oyez, oyez.
5. \$4,000.

Recent Articles

The following articles about criminal justice appeared in the July issue of the *Court Informer*. The entire issue can be found online at <http://www.superiorcourt.maricopa.gov/lawlibrary/Documents/Html/CourtInformer/ci0407.asp>

Bibas, Stephanos. "Plea Bargaining Outside the Shadow of Trial." 117 *Harvard Law Review* 2463 (June 2004).

Bibas, Stephanos. "The Psychology of Hindsight and After-the-Fact Review of Ineffective Assistance of Counsel." 2004 *Utah Law Review* 1 (2004).

Brulliard, Karen. "Va. Toughens Penalties for Drunken Driving; State's Strict New Legislation is Intended to Reduce Accidents and Increase Jail Time." *Washington Post* B05 (July 1, 2004).

Butterfield, Fox. "U.S. Justice System Oversees Record 6.9M; Count Covers All Inmates, Parolees, Probationers." *East Valley Tribune* A11 (July 26, 2004).

"California Report Criticizes 'Dysfunctional' Prisons." *New York Times* 11 (July 4, 2004).

Coen, Jeff. "Prosecutors Fear Impact of Backlog at Crime Lab; Charges Get Filed Before Tests Done." *Chicago Tribune* 1 (June 28, 2004).

Crawford, Amanda J. and Michael Kiefer. "Corrections Report Spurs State Debate." *Arizona Republic* B1 (June 28, 2004).

Curry, Theodore E., Gang Lee, and S. Fernando Rodriquez. "Does Victim Gender Increase Sentence Severity?: Further Explorations of Gender Dynamics and Sentencing Outcomes." 50 *Crime & Delinquency* 319 (July 2004).

Davenport, Paul. "Defenders Say Don't Rush Sentencing Changes." *Arizona Republic* B10 (July 16, 2004).

Davis, Kristina. "Animal Cruelty a 'Higher Priority'; 1999 Law, Increased Awareness Result in More Prosecutions." *East Valley Tribune* A3 (June 27, 2004).

Eggan, Dan and Jerry Markon. "High Court Decision Sows Confusion on Sentencing Rules." *Washington Post* A01 (July 13, 2004).

Eisley, Matthew. "Panel Eyes New System for 'Innocence Review'." 26 *National Law Journal* 6 (June 7, 2004).

Frei, Ryan D. "Does Time Eclipse Crime? *Stogner v. California* and the Court's Determination of the Ex Post Facto Limitations on Retroactive Justice." 38 *University of Richmond Law Review* 1011 (May 2004).

Hines, Cragg. "Not By Death Alone: States Inch Toward Adding Life Sentences." 117 *Los Angeles Daily Journal* 6 (July 2, 2004).

Hogg, William. "Mothers Who Murder Their Children: An Impressionistic Study." 25 *American Journal of Forensic Psychiatry* 45 (2004).

Iliff, Laurence. "Mexico Prisons Under Fire Over Torture Reports." *Arizona Republic* 7 (June 4, 2004).

Johnson, Darragh. "Probation 101: Law and Life Lessons; a Class, Maryland's First, Seeks to Set

Convicts Off on the Right Path Through the Justice System." *Washington Post* 14 (July 8, 2004).

"Lack of Staff Training, Conditions at Indian Jails Called Dangerous." *Arizona Republic* B10 (July 9, 2004).

Liptak, Adam. "Federal Law on Sentencing Is Unjust, Judge Rules." *New York Times* A20 (June 23, 2004).

Liptak, Adam. "Justices' Sentencing Ruling May Have Model in Kansas; State Acted Early to Curb Judges' Power." *New York Times* A12 (July 13, 2004).

"Making Outcasts Out of Outlaws: The Unconstitutionality of Sex Offender Registration and Criminal Alien Detention." 117 *Harvard Law Review* 2731 (June 2004).

Saltzman, Jonathan. "Suit Seeks Pay Raise for Public Defenders; Ability of Indigent to Get Aid Seen at Risk." *Boston Globe* B1 (June 29, 2004).

"Tennessee May Use GPS on Parolees" (July 13, 2004), available at http://news.findlaw.com/ap/ht/1700/7-13-2004/20040713094505_75.html

Thompson, Don. "Judge Slams California Prison Officers' Contract; Threatens to Appoint Receiver to Handle State's System." *Arizona Republic* A9 (July 21, 2004).

Tilghman, Andrew. "Unusual Sentences Bring Humiliation to Legal Process" (June 9, 2004), available at <http://www.chron.com/cs/CDA/ssistory.mpl/front/2617566>

Villa, Judi. "DUI Home Detention Urged; Panel Proposes Pilot Program as Cost-Saving Measure." *Arizona Republic* 1 (June 19, 2004).

Visser, Steve. "Federal Judge May Take Over Fulton Prison." *Atlanta Journal-Constitution* A1 (June 26, 2004).

Weinstein, Harry. "Justice System Is 'Broken', Lawyers Say; With Soaring Prison Populations, Especially of Minorities, the U.S. Must Seek Alternatives, Bar Association Urges." *Los Angeles Times* A14 (June 24, 2004).

Weinstein, Henry. "Lawyers Say U.S. too Reliant on Prison Time." *Arizona Republic* A8 (June 24, 2004).

Zoroya, Gregg. "Smoking Ban Spread to 105 Federal Prisons." *Arizona Republic* A18 (July 25, 2004).

New Books

Baer, Walter S.
Estimating the Benefits of the GridWise Initiative: Phase I Report
Rand Science and Technology
TK3001 .B34 2004

Bergman, Paul
The Criminal Law Handbook: Know Your Rights, Survive the System
Nolo Press
KF9619.6 .B47 2004

Brody, Steven G.
Advertising and Commercial Speech: A First Amendment Guide
Practising Law Institute
KF1614 .D482

California Civil Procedure Before Trial
Continuing Education of the Bar, California
KFC995 .C332

Fransz, Helene Z.
Forming California Common Interest Developments
Continuing Education of the Bar--California
KFC144.5 .F67

Gonzalez, Edward
Cuba After Castro: Legacies, Challenges, and Impediments
RAND Corp.
F1788 .G58 2004

Goolsbee, Austan
Cigarette Taxes and the Internet
American Bar Foundation
KF6635 .G66 2003

Halliday, Terence C.
Conformity, Contestation and Culture in the Globalization of Insolvency Regimes: International Institutions and Law-Making in Indonesia and China
American Bar Foundation
KPO362 .H355 2003

Halliday, Terence C.
Epistemological Conflicts and Institutional Impediments: The Rocky Road to Corporate Bankruptcy Reforms in Korea

American Bar Foundation
KPA1942 .H35 2003

Halliday, Terence C.
Foiling the Hegemons: Limits to the Globalization of Corporate Insolvency Regimes in Indonesia, Korea and China
American Bar Foundation
KPO362 .H35 2003

Halliday, Terence C.
The Globalization of Insolvency Law-Making, 1973-1998
American Bar Foundation
K1374.53 .C37 2003

Kamoroff, Bernard.
Small Time Operator: How to Start Your Own Business, Keep Your Books, Pay Your Taxes and Stay Out of Trouble!
Bell Springs Pub.
HD62.5 .K35 2004

Liu, Chenglin
Chinese Law on SARS
W.S. Hein
KNQ3082.S27 L58 2004

Lowell, Julia F.
State Arts Agencies, 1965-2003: Whose Interests to Serve?
RAND
NX740 .L68 2004

Manual of Foreign Investment in the United States
West
KF1575 .M36 2004

McAdams, Richard H.
A Third Model of Legal Compliance: Testing for Expressive Effects in a Hawk/Dove Game
American Bar Foundation
HM34 .M33 2003

McGill, Christa A.
The Role of Debt In Law Student Career Choices
American Bar Foundation
KF287 .M34 2003

Ribstein and Keatinge on Limited Liability Companies
Thomson/West
KF1380 .R522

Schlueter, David A.
Military Criminal Justice: Practice and Procedure
LexisNexis/M. Bender
KF7620 .S34 2004

Steingold, Fred
The Employer's Legal Handbook
Nolo Press
KF3455.Z9 S74 2004

Strauss, John
Indonesian Living Standards: Before and After the Financial Crisis
Rand Corp.
HD7055 .I536 2004

Tomlins, Christopher L.
History and the Juridical Field: Narrative, Justification and Explanation in the American Case
American Bar Foundation
KF352 .T66 2003

Warner, Ralph E.
Everybody's Guide to Small Claims Court
Nolo Press
KF8769 .W37 2004

Williams, Anne H.
How to Manage & Minimize Absenteeism
M. Lee Smith Publishers
HD5115 .W55 2004

Woeste, Victoria Saker
Insecure Equality: Jewish Lawyers, Conflicts, and Convictions in the Henry Ford Libel Lawsuits, 1920-1929
American Bar Foundation
KF224.F67 W642 2003

Woeste, Victoria Saker
Institutionalizing Creative Destruction: Predictable and Transparent Bankruptcy Law in the Wake of the East Asian Financial Crisis
American Bar Foundation
KPO362 .C37 2003

Woeste, Victoria Saker
The Legal Construction of Discrimination: A Sociological Model of Employment Discrimination Law
American Bar Foundation
KF3464 .N54 2003

Woeste, Victoria Saker
The Madrid Protocol: Trademark Superhero?
Matthew Bender
KF2980 .G53 2004

Woeste, Victoria Saker
Media Misrepresentation?: Anti-discrimination Law, Print Media, and Legal Consciousness
American Bar Foundation
KF2750 .N54 2003

Woeste, Victoria Saker
Suing Henry Ford: Rhetorics of Persuasion and Conversion Narratives in Antisemitism and Libel, 1920-1927
American Bar Foundation
KF224.F67 W64 2003

Contributors:

Susan Armstrong
Valerie Lerma
Richard Teenstra